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ROOM NO. 7D43	BUILDING Hqs.	
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ROOM NO. 6E0702	BUILDING Hqs.	EXTENSION 7865
FORM NO. 241 1 FEB 55		REPLACES FORM 36-8 WHICH MAY BE USED. (47)

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OSD review(s) completed.

OFFICE OF THE SECRETARY OF DEFENSE

Memo For Ed — 7-9

Attached is the DOD  
position paper on  
the Symington Amendment.

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## DOD POSITION ON THE SYMINGTON AMENDMENT

(Adding Sec. 502 to the bill S. 939 which authorizes appropriations in FY 72 for procurement, etc. for the Armed Forces.)

Effect of the Amendment

The proposed amendment would limit obligations or expenditures to \$200 million for economic and military assistance and for support of all military operations in, to, for, or on behalf of Laos during FY 72 except for the expenditure of funds to carry out combat air operations by US forces over the Ho Chi Minh Trail area in southern Laos and "areas immediately adjacent to such trails." In addition, the amendment would prohibit any funds from being obligated or expended for operations in Laos outside the Ho Chi Minh Trail beginning with FY 73, unless specific new authorizing legislation is enacted. Finally, the amendment requires a quarterly report by the President to Congress of all expenditures "in, for, or on behalf of Laos" during the preceding quarter.

DOD Position

DOD strongly opposes the amendment.

I. It would substantially impair our on-going operations in Laos, operations which have been undertaken at the request of the Government of Laos to assist it in resisting military takeover by North Vietnam.

-- The strategic location of Laos, bordering the other states of Indochina plus Thailand and Burma, makes it especially important that a belligerent state not control Laos. The opportunity for regional stability is being kept open by the continued independence and neutrality of Laos. The following comment by President Nixon on 7 October 1970 is relevant: "The war in Indochina has been proved to be of one piece; it cannot be cured by treating only one of its areas of outbreak."

-- This Administration has continued American support for the efforts of Prime Minister Souvanna Phouma to reconstitute the 1962 Geneva Agreements guaranteeing his country's neutrality, independence and territorial integrity. Limitations imposed by Congress on our ability to achieve that objective would raise doubts not only about our determination to adhere to our stated objectives, but to our more formal commitments as well.

-- (C) An action by the Senate such as that proposed in this amendment would surely impact severely on the Government of Laos. The implication that our determination or capability may waver would undermine the already weak political structure of the government and possibly cause the US to lose the approval of the Lao Government to bomb the Trail, thereby endangering our successful Vietnamization program.

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-- (S) The limitation to \$200 million would drastically curtail operations. While exact amounts may be difficult to extract from budget data, the estimated amounts included in the military functions appropriations for support of friendly forces in Laos in FY 72 will total approximately \$140 million. This will cover a "program" of over \$220 million exclusive of combat air support.\* A rough calculation of the incremental cost of combat air support in Laos outside the Trail area would add somewhere in the neighborhood of \$150 million to that figure. In addition, there is currently over \$50 million in the AID budget request for supporting assistance. Finally, if this amendment were interpreted to include expenditures under the CIA budget,--which apparently is the sponsor's intent--the figure would be increased accordingly. Further, if US support of GVN operations "in" the sanctuary area of Laos is also within the intent of the amendment, the limiting effect of the ceiling is even more severe.

-- Such a limitation would severely limit our ability to effectively implement that part of the Nixon Doctrine that calls for sufficient military assistance to allow such governments to resist Communist aggression. In implementing his policy, the President should have sufficient flexibility to meet with an adequate response, changes in the local military situation. As he indicated about Indochina in his 25 February 1971 foreign policy report: "A negotiated settlement for all Indochina remains our highest priority. But if the other side leaves us no choice, we will follow the alternative route to peace--phasing out our involvement while giving the region's friendly countries the time and the means to defend themselves."

-- The overall limitation of \$2.5 billion annually for expenditures in military assistance to friendly and local forces in Southeast Asia already applies to DOD budgeted support of Laos.

II. The proposed amendment would intrude into matters properly within the constitutional authority of the President, as Commander-in-Chief, to direct military operations in Southeast Asia. A special limitation on the amount of funds which may be used in one of the operational areas of conflict would be a back door attack on the President's authority.

III. As drafted, the amendment cannot be administered by the Executive branch. With the knowledge and express concurrence of the cognizant

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\* The program is a management tool utilized by OSD and intermediate commanders to establish a constraint on the total resources to be provided to a country as contrasted to the amounts included in a specific year's appropriation request to the Congress. The program figure will exceed the budget figure for each fiscal year because the program level can be partly supported by excess or long supply stocks, which, if used, count against the program but not against the budget because they were bought in prior years for US force requirements and are no longer needed for that purpose. The program, in other words, gives OSD a more precise control because (1) through the program we can examine and approve the item content of our assistance and (2) it establishes a total resource constraint. The budget amounts are the funds needed in the stated fiscal year to procure equipment specifically for the Lao Government and for operation and maintenance support for Laos forces.

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congressional committees since FY 67, the records of the Department of Defense for military assistance service funded (MASF) for Southeast Asia have been maintained only on an estimate basis because of the necessary integration of the supply and fiscal procedures of MASF with our own operations to meet a combat situation. Further, while DOD has been able to maintain records by country on an estimate basis with respect to obligations, it has not been able to maintain records on a country-by-country basis--as distinguished from Southeast Asia as a whole--with respect to expenditures.

IV. Assuming, however, that it were possible to establish and maintain current records both as to expenditures and obligations, to impose a fiscal year ceiling on both expenditures and obligations would be to cut the actual level of operations in a current fiscal year substantially below the amount specified in the Amendment as the ceiling on obligations--inasmuch as expenditures in any fiscal year necessarily involve obligations incurred in prior fiscal years as well as those which relate to obligations of the current year.

V. Finally, it should be observed that subsection (C) of the Amendment is ineffective, as drafted, to carry out the Sponsor's intent to provide an exception for combat air operations over the Ho Chi Minh Trail area. Whereas the operative subsections which impose constraints are written in terms of obligations and expenditures, the exception provided for in subsection (C) with respect to combat air operations over the sanctuary areas in Southern Laos only excludes expenditures and not obligations.

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## AMENDMENT

Intended to be proposed by Mr. Symington to the bill (S. 939) to authorize appropriations during the fiscal year 1972 for procurement of aircraft, missiles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each reserve component of the Armed Forces, and for other purposes,

viz: At the end of the bill add a new section as follows:

Sec. 502. (a) Notwithstanding any other provision of law, no funds authorized to be appropriated by this or any other Act may be obligated or expended in any amount in excess of \$200 million for the purpose of carrying out directly or indirectly any economic or military assistance, or any operation, project, or program of any kind, or for providing any goods, supplies, materials, services, personnel, or advisors in, to, for, or on behalf of Laos during the fiscal year ending June 30, 1972.

(b) No funds may be obligated or expended for any of the purposes described in subsection (a) of this section in, to, for, or on behalf of Laos in any fiscal year beginning after June 30, 1972, unless such funds have been specifically authorized by law enacted after the date of enactment of this Act. In no case shall funds in any amount in excess of the amount specifically authorized by law for any fiscal year be obligated or expended for any such purpose during such fiscal year.

(c) The provisions of subsections (a) and (b) of this section shall not apply with respect to the expenditure of funds to carry out combat air operations over the so-called Ho Chi Minh trails in northern Laos, and over areas immediately adjacent to such trails, by United States military forces.

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(d) After the date of enactment of this Act, whenever any request is made to the Congress for the appropriation of funds for use in, for, or on behalf of Laos for any fiscal year, the President shall furnish a written report to the Congress explaining the purpose for which such funds are to be expended in such fiscal year.

(e) The President shall submit to the Congress within 30 days after the end of each quarter of each fiscal year, beginning with the fiscal year which begins July 1, 1971, a written report showing the total amount of funds expended in, for, or on behalf of Laos during the preceding quarter by the United States Government, and shall include in such report a general breakdown of the total amount expended, describing the different purposes for which such funds were expended and the total amount expended for each such purpose.